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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/449,660	11/30/1999	JAMES WICHELMAN	10001186	6543

22878 7590 08/01/2003

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EXAMINER

VOLPER, THOMAS E

ART UNIT PAPER NUMBER

2697

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/449,660

Applicant(s)

WICHELMAN ET AL.

Examiner

Thomas Volper

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 6 May, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 10, 11, 13-16, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 4, 9, 12, 17 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1 and 13 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chappell (US 6,425,132).

Regarding claims 1, 7 and 13, Chappell discloses a system and method of testing nodes in a CATV system. A field client (50<sub>x</sub>) is coupled to the CATV distribution network. The field client receives upstream test results from a specified node and is able to graphically display several signal level measurements that enable a technician to view the reverse spectrum of the node (col. 5, line 62 – col. 6, line 29). The field client contains substantially the same circuitry as an ingress modem (60) (col. 9, lines 31-34), which includes a controller (100) that contains program memory and data memory (col. 6, lines 30-58). Figure 7 shows the test results that are received by the field client. They include results for a number of specified nodes and a channel plan. The various components of the channel plan are explained (col. 11, lines 16-39). This

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channel plan meets the limitations of channel level test results that include a number of channel parameters. The system also includes a signal combiner (62) that receives upstream signals from nodes  $32_1$ - $32_N$ . The composite upstream signal,  $63_{N+1}$ , that is output from the signal combiner is fed to test point switch (64) in addition to signals  $63_1$ - $63_N$ . This composite upstream signal represents a group of nodes transmitting upstream signals. Chappell fails to expressly disclose selecting this composite signal to be sent to the modem (60) to produce spectral analysis, and then on to the field client. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to select the composite signal for spectral analysis in addition to selecting individual nodes. One of ordinary skill in the art would have been motivated to do this to receive an indication of the average performance of the group of nodes in a specified area.

Regarding claim 2, Chappell discloses a node list, wherein for each node in the list, the modem (60) performs a reverse spectrum measurement. Each time a new node is tested it is added to the list (col. 9, lines 50-67).

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chappell (US 6,425,132) as applied to claims 1, 2, 7 and 13 above, and further in view of Schwartz (US 5,883,882).

Regarding claim 3, Chappell provides all the limitations of claim 3 except a group total node power graph indicating a power range for a number of nodes. Schwartz discloses fault detection in a frequency duplexed system in which a detected power level is compared to an accepted range (col. 8, lines 12-17). At the time the invention was made, it would have been

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obvious to a person of ordinary skill in the art to display the detected power level of Schwartz and show the accepted range on the graphical display for the nodes in the list of Chappell. One of ordinary skill in the art would have been motivated to do this in order to in order to detect a fault of a node associated with the group.

5. Claims 5, 6, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chappell (US 6,425,132) as applied to claims 1, 2, 7 and 13 above, and further in view of Hsu et al. (US 6,483,814).

Regarding claims 5 and 14, Chappell provides all of the limitations except that the channel plan graph indicates a desired frequency spectrum of one of the nodes. Hsu discloses a graph that displays designated good channels, with associated frequency bands demonstrated by vertical lines, and their respective locations in a frequency spectrum (see Fig. 2). At the time the invention was made it would have been obvious to a person of ordinary skill in the art to use this graph to display the desired frequency spectrum and channel locations therein of one of the nodes of the aforementioned teaching. One of ordinary skill in the art would have been motivated to do this because it would give a system technician a reference to compare to an actual frequency spectrum in order to assure that the system was operating within the correct spectrum.

Regarding claims 6 and 15, Chappell provides all of the limitations except a graph indicating the total node power with respect to time. Hsu discloses a graph that measures power with respect to time (see Fig. 1). At the time the invention was made it would have been obvious to a person of ordinary skill in the art to use this graph to display the total power of a node with

respect to time. One of ordinary skill in the art would have been motivated to do this in order to track power fluctuations at a node to determine if a particular node is operating efficiently or if a problem, such as power dissipation, needs to be addressed.

6. Claims 8, 10, 11, 16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chappell (US 6,425,132) as applied to claims 1, 2, 7 and 13 above, and further in view of Chen et al. (US 6,032,019) and Hsu et al. (US 6,483,814).

Regarding claims 8, 10, 16 and 18, Chappell provides the limitations except a graph to display the carrier-to-noise ratio with respect to time for a channel. Chen et al. provides the limitation of determining the carrier-to-noise ratio of frequencies within a sub-band (col. 10, 51-62). Hsu discloses a graph that displays power with respect to time (see Fig. 1). At the time the invention was made it would have been obvious to use the graph of Hsu to display the carrier-to-noise ratio measurement of Chen with respect to time of a sub-band, or channel, as an alternative to displaying power with respect to time, on the graphical display of Chappell. One of ordinary skill in the art would have been motivated to do this to measure noise fluctuations of a particular channel to identify when noise renders a channel unusable.

Regarding claims 11 and 19, Chappell provides the limitations except a channel power graph that indicates a magnitude of channel noise power with respect to time. Chen provides for determining a signal-to-noise ratio at a certain power level of transmission for a particular frequency within a particular sub-band (col. 11, lines 20-33). The actual magnitude of the noise power is implicit in this ratio because the power level of transmission is known. Hsu discloses a graph that displays power versus time (see Fig. 1). At the time the invention was made, it would

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have been obvious to a person of ordinary skill in the art to display the signal-to-noise ratio of Chen with respect to time on the graph of Hsu and provide this on the graphical display of Chappel. One of ordinary skill in the art would have been motivated to do this in order to determine when the noise power at a particular frequency became unacceptable and to switch to a different frequency.

*Allowable Subject Matter*

7. Claims 4, 9, 12, 17 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

8. Any inquiry concerning this communication, or earlier communications from the examiner should be directed to Thomas Volper whose telephone number is 703-305-8405 and fax number is 703-746-9467. The examiner can normally be reached between 8:30am and 6:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached at 703-308-6602. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

tev

July 21, 2003



7/29/03